

Local Government, Housing and Planning Committee  
Tuesday 28 January 2025  
3<sup>rd</sup> Meeting, 2025 (Session 6)

## Note by the Clerk on The Local Government Pension Scheme (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024 (SSI 2024/374)

### Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 5 February 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. Further information about the instrument is summarised below:

**Title of instrument:** [The Local Government Pension Scheme \(Remediable Service\) \(Scotland\) \(Miscellaneous Amendment\) Regulations 2024 \(SSI 2024/374\)](#)

**Laid under:** Powers conferred by sections 1, 2 and 3 and Schedule 2 of the [Public Services Pensions Act 2013](#).

**Laid on:** 12 December 2024

**Procedure:** Negative

**Deadline for committee consideration:** 3 February 2025

**Deadline for Chamber consideration:** 5 February 2025

**Commencement:** 6 February 2025

### Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a

meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

## **Delegated Powers and Law Reform Committee consideration**

7. The DPLR Committee [reported on the instrument after considering it on 7 January 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

## **Purpose of the instrument**

8. The Policy Note accompanying the instrument is included in Annexe A. It states that:

“These Regulations make changes to The Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023. These regulatory changes are required as a result of changes made to the Local Government Pension Scheme (LGPS) England & Wales (E&W) McCloud regulations, after Scottish Ministers laid regulations in Scotland in October 2023. These minor amendments will bring the Scottish LGPS scheme in line with the schemes in E&W and Northern Ireland (NI). They also include a change to the requirement for Administering authorities (AAs) to provide McCloud underpin information to the 2023/24 benefits statements and a further dispensation for the period 2024/25, if the required information is not available to AAs.”

9. The Policy Note also provides further background information on the McCloud judgment which it describes as having identified “unlawful discrimination” in respect of pension scheme arrangements on the basis of age.
10. The Policy Note confirms that both the UK and Scottish governments have consulted on the proposed changes. It also confirms that the instrument has no financial effects on the Scottish Government, local government or businesses and that an Equality Impact Assessment has previously been completed for the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations.
11. In the Scottish Government’s view, “these Amendments to those Regulations provide further assurance that Scottish Ministers are committed to avoiding further unlawful age discrimination, as first identified by the Court of Appeal ruling in their judgement of the ‘McCloud’ case.”
12. A Child Rights and Wellbeing Impact Assessment (CRWIA) for amending The Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023 was [published in December](#).

## **Committee consideration**

13. So far, no motion recommending annulment has been lodged.

14. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
- inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

15. It would then be for the Committee, at a future meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

16. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

17. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

**Clerks to the Committee**  
**January 2025**

## Annexe A: Scottish Government Policy Note

### POLICY NOTE

#### THE LOCAL GOVERNMENT PENSION SCHEME (REMIABLE SERVICE) (SCOTLAND) (MISCELLANEOUS AMENDMENT) REGULATIONS 2024

#### SSI 2024/374

The above instrument was made in exercise of the powers conferred by sections 1, 2 and 3 and Schedule 2 of the Public Services Pensions Act 2013. The instrument is subject to negative procedure.

#### **Purpose of the instrument.**

These Regulations make changes to The Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023. These regulatory changes are required as a result of changes made to the Local Government Pension Scheme (LGPS) England & Wales (E&W) McCloud regulations, after Scottish Ministers laid regulations in Scotland in October 2023. These minor amendments will bring the Scottish LGPS scheme in line with the schemes in E&W and Northern Ireland (NI). They also include a change to the requirement for Administering authorities (AAs) to provide McCloud underpin information to the 2023/24 benefits statements and a further dispensation for the period 2024/25, if the required information is not available to AAs.

### Policy Objectives

When the Government reformed public service pension schemes in 2014 and 2015, transitional protections were introduced for older members. In December 2018, the Court of Appeal ruled that younger members of the Judicial and Firefighters' pension schemes had been unlawfully discriminated against because the protections did not apply to them. This ruling is called the McCloud judgment and the UK Government decided that this judgement affected all public service schemes. On 1 October 2023, the Local Government Pension Scheme (LGPS) Regulations were amended in Scotland to remedy the unlawful discrimination identified by the courts in the 'McCloud' judgement. Appropriate changes were made to the final salary statutory underpin protection.

Subsequent to those changes in 2023, the UK Government made further amendments which Scottish Ministers consider should be incorporated to the

Scottish regulations in order to bring the scheme in line with the schemes in E&W and NI.

Changes to these regulations are important to limit any further risks to legal challenge regarding unlawful age discrimination, and ensure the remedy works as intended. The regulations are due to be laid on 12 December 2024.

## **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children's rights. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Local Government Pension Scheme (Remediable Service) (Scotland) (Miscellaneous Amendment) Regulations 2024 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## **Consultation**

An 8 week consultation was carried out commencing on 2 September 2024 to 28 October 2024. The UK Government had already consulted on these changes. There were three responses, in agreement with the proposed changes.

## **Impact Assessments**

These Regulations have no new impact on business or the voluntary sector.

## **Financial Effects**

These Regulations have no new Business and Regulatory Impact Assessment (BRIA) conducted upon on them as the financial aspects of these regulations remain unchanged.

Scottish Ministers confirm that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

## **Equality Impact Assessment**

An Equality Impact Assessment was carried out for the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations. These Amendments to those Regulations provide further assurance that Scottish Ministers are committed

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to avoiding further unlawful age discrimination, as first identified by the Court of Appeal ruling in their judgement of the 'McCloud' case.

Scottish Public Pensions Agency  
An Agency of the Scottish Government 3 December 2024